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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,329	09/23/2003	John Hane	57132.000008	1653

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EXAMINER

SHIFERAW, ELENI A

ART UNIT	PAPER NUMBER
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2436

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10/27/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/667,329	Applicant(s) HANE, JOHN	
	Examiner ELENI A. SHIFERAW	Art Unit 2436	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1,5-7,11-13,17,18 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) 19-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-7,11-13,17,18 and 24-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. Claims 1, 5-7, 11-13, 17-18 and 24-26 are pending.
2. Claims 19-23 are withdrawn.

Response to Arguments on 07/28/2008

3. Applicant's arguments filed on 07/28/2008 with respect to presently added new claims 24-26, and presently pending claims 1, 5-7, 11-13, 17-18 and 24-26 have been fully considered but they are not persuasive.

Regarding argument Kikinis failure to disclose the key being transmitted via a satellite system to a user, remark page 10 par. 2, as recited in claim 1, argument is not persuasive because as applicant agreed on the remark page 10 lines 13-15, the data packets are handled individually and sent by land and satellite and also Kikinis teaches encrypting data and sending it by land *and sending decryption key to the user via digital link 53 (see col. 6 lines 28-35).*

In response to applicant's arguments against the references individually (Kikinis failure to disclose transmitting the first set of data packet "at a first transmission time via the Internet" and transmitting the second set of data packets "at a second transmission time via the satellite delivery system, wherein the second transmission time is different from the first transmission time,"), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

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USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Kamiya is cited for this limitation (see Kamiya par. 0023-0025, and 0006-0012 and page 4 of the Office Action sent on 04/07/2008)

In response to applicant's argument regarding no prima facie case of obviousness, argument is not persuasive sufficient motivation to combine is provided in the previous Office Action.

The applied references do teach or suggest the subject matter as recited in independent claims. Dependent claims also rejected at least by virtue of their dependency on independent claims and by other reason set forth in this office action dated October 24, 2008. Accordingly, rejections for claims 1, 5-7, 11-13, 17-18 and 24-26 are respectfully maintained.

Response to Arguments on 02/26/2008

Applicant's arguments filed 02/26/2008 have been fully considered.

Arguments regarding modem of applied reference not being internet is not persuasive because the modem is a modem-connected land based internet connection through a public-switched telephone network (see col. 3 lines 47-col. 4 lines 3, for example). Applicant's amendment and argument regarding transmitting ... in second transmission time is disclosed below using a new reference.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 5-7, 11-13, 17-18 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikinis (US Patent 6,289,389) in view of Kamiya et al. 2002/0106086 A1.

Regarding claims 1, 7, and 13, Kikinis teaches

- a method for requesting and securely receiving data from the Internet (**abstract**), said method comprising the steps of:
- receiving a request for data (**col. 1, lines 5-10, data requested by a user**);
- collecting data in response to said request (**col. 1, lines 5-10, data gathering site**);
- packetizing said collected data into at least two sets of data packets (**col. 6, lines 30-47, encrypted data and decryption key**),
- wherein a first set of data packets comprises encrypted data (**col. 6, lines 30-47, encrypted data**) and a second set of data packets comprises a key for decoding said encrypted data (**col. 6, lines 30-47, decryption key**);

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- selecting and addressing a first set of data packets for transmission via the Internet, and automatically attaching a first address to said first set of data packets **(col. 6, lines 30-47, through modem);**
- selecting and addressing a second set of data packets for transmission via a satellite delivery system **(col. 6, lines 30-47, through digital link to satellite);**
- transmitting said first set of data packets via the Internet **(col. 6, lines 30-47, through modem);** and
- transmitting said second set of data packets via said satellite delivery system **(col. 6, lines 30-47, through digital link to satellite).**
- Kikinis fails to disclose first data packets for transmission at a first transmission time and a second set of data packets for transmission at a second transmission time wherein the second transmission time is different from the first transmission time.
- However transmitting a encrypted content data packet with first address over a first path and transmitting a key that is used to encrypt the content and has a second address via a different path with a transmission time that is different from the first eg. in hours or days apart, is disclosed by Kamiya et al. (see par. 0023-0025 and 0006-0012). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to employ the teachings within the system of Kikinis because they are analogous in content distribution security. One would have been obvious to do so because it would prevent hackers from intercepting the transmitted data and find all the information

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(key and content) in one single interception and retrieve data and would make it difficult to hackers to intrude transmitted data.

Regarding claims 24, 25 and 26 Kikinis discloses a method for requesting and securely receiving data from the Internet **(abstract)**, said method comprising the steps of:

receiving a request for data **(col. 1, lines 5-10, data requested by a user);**

collecting data in response to said request **(col. 1, lines 5-10, data gathering site);**

packetizing said collected data into at least two sets of data packets **(col. 6, lines 30-47, encrypted data and decryption key);**

wherein a first set of data packets comprises encrypted data **(col. 6, lines 30-47, encrypted data)** and a second set of data packets comprises a key for decoding said encrypted data **(col. 6, lines 30-47, decryption key)** selecting and addressing said first set of data packets for transmission via a first channel at a first frequency, and automatically attaching a first address to said first set of data packets **(col. 6, lines 30-47, through modem);**

selecting and addressing said second set of data packets for transmission via a second channel at a second frequency, wherein the second frequency is different from the first frequency **(col. 6, lines 30-47, through digital link to satellite);**

transmitting said first set of data packets via said first channel **(col. 6, lines 30-47, through modem);** and

transmitting said second set of data packets via said second channel (**col. 6, lines 30-47, through digital link to satellite**).

- Kikinis fails to disclose first data packets for transmission at a first transmission time and a second set of data packets for transmission at a second transmission time wherein the second transmission time is different from the first transmission time.
- However transmitting a encrypted content data packet with first address over a first path and transmitting a key that is used to encrypt the content and has a second address via a different path with a transmission time that is different from the first eg. in hours or days apart, is disclosed by Kamiya et al. (see par. 0023-0025 and 0006-0012). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to employ the teachings within the system of Kikinis because they are analogous in content distribution security. One would have been obvious to do so because it would prevent hackers from intercepting the transmitted data and find all the information (key and content) in one single interception and retrieve data and would make it difficult to hackers to intrude transmitted data.

Regarding claims 5, 11, and 17, Kikinis teaches wherein said satellite delivery system is comprised of a network processing center with an associated provider antenna and at least one subscriber terminal with an associated subscriber antenna (**fig. 1, 23, 45**).

Regarding claims 6, 12, and 18, Kikinis teaches wherein said satellite delivery system further comprises a satellite (**fig. 1, 37**).

Conclusion

6. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELENI A. SHIFERAW whose telephone number is (571)272-3867. The examiner can normally be reached on Mon-Fri 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser R. Moazzami can be reached on (571) 272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eleni A Shiferaw/

Examiner, Art Unit 2436

/Nasser G Moazzami/

Supervisory Patent Examiner, Art Unit 2436

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